

APPEAL NO. 033036
FILED JANUARY 6, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on October 15, 2003. The hearing officer determined that the appellant's (claimant) compensable (lumbar sprain and left knee contusion) injury of _____, does not extend to nor include disc bulges at L3-4, L4-5, and L5-S1 and that the claimant did not sustain any disability.

The claimant appeals, contending that she had an injury to her coccyx area and emphasizes evidence which would support a different result. The respondent (carrier) responds, urging affirmance.

DECISION

Affirmed.

The claimant, a registered nurse and director of surgical services, testified how on _____, she slipped and fell, injuring her low back and left knee. The carrier accepted, and the parties stipulated, that the claimant sustained a compensable lumbar sprain and left knee contusion. The claimant sought treatment from Dr. B on August 30, 2001. Dr. B noted left knee and coccyx pain, and released the claimant to modified duty. Whether the claimant returned to full duty or modified duty is disputed but in any event the claimant returned to work. The claimant continued to complain of pain and on November 16, 2001, Dr. B ordered an MRI of the lumbar spine, which was normal. In January 2002 the claimant changed treating doctors to Dr. T, who in reports beginning February 5, 2002, continued to note complaints of low back pain. Work Status Report (TWCC-73) forms dated February 5, 2002, and December 12, 2002, from Dr. T release the claimant to work without restrictions. The claimant continued to work at least full time (in dispute is whether the claimant was working 50 to 70 hours a week as reported by one doctor but denied by the claimant) until January 31, 2003, when the claimant's employment was terminated. The cause of the termination is unclear but clearly not related to the compensable injury or the claimant's ability to work. Dr. T in a TWCC-73 dated February 27, 2003, took the claimant off work. Another MRI was performed on March 6, 2003, which showed 2 mm disc bulges at L4-S1. A Texas Workers' Compensation Commission required medical examination (RME) doctor's report dated July 8, 2003, with an addendum dated July 21, 2003, indicates the claimant can return to work without restrictions and that in the doctor's opinion, after reviewing both MRI's, the disc bulges were not caused by the _____, injury.

The claimant contends that the RME doctor's reports should be disregarded and that Dr. T's reports should have greater weight. The carrier contends that the claimant's compensable injuries were minor and that the extent-of-injury and disability issues did not arise until after the claimant's employment had been terminated. The hearing officer

determined that the claimant had failed to meet her burden of proof with credible evidence. Clearly the evidence was conflicting. Questions regarding the extent of an injury and whether the claimant had disability as defined in Section 401.011(16) presented questions of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the fact finder, the hearing officer was charged with the responsibility of resolving the conflicts and inconsistencies in the evidence and deciding what facts the evidence had established. This is equally true of medical evidence. Texas Employers Insurance Association v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was acting within her province as the fact finder in resolving the conflicts and inconsistencies in the evidence against the claimant. Nothing in our review of the record reveals that the challenged determinations are so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986). Accordingly, no sound basis exists for us to disturb those determinations on appeal.

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **THE INSURANCE COMPANY OF THE STATE OF PENNSYLVANIA** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Elaine M. Chaney
Appeals Judge

Robert W. Potts
Appeals Judge